

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Case No.: 2:20-cr-00231-APG-NJK

Plaintiff

**Order Accepting Magistrate Judge's  
Report and Recommendation on Motion to  
Suppress**

v.

BRANDON CASUTT,

[ECF Nos. 48, 69, 75]

Defendant

Defendant Brandon Casutt moved to suppress “all evidence gathered from the electronics belonging” to him and his family, and his statements to officers. ECF No. 48 at 1. After conducting an evidentiary hearing, Magistrate Judge Koppe recommended that the motion to suppress be denied. ECF No. 69. Mr. Casutt objected to that recommendation (ECF No. 70) and the Government responded (ECF No. 72). Mr. Casutt also moved for permission to file a reply in support of his objection. ECF No. 75.

I have conducted a *de novo* review of the motion and related papers as required by Local Rule IB 3-2(b). Judge Koppe’s Report and Recommendation sets forth the proper legal analysis and factual bases for the decision, and I adopt it as my own. I supplement her findings and conclusions as follows:

Mr. Casutt voluntarily provided the passcodes to Special Agent Robinson. The contents of the cell phone are “the physical fruit of a voluntary statement” and thus would not be suppressed under *United States v. Patane*, 542 U.S. 630, 636 (2004). *See also Tekoh v. Cnty. of Los Angeles*, 985 F.3d 713, 721-22 (9th Cir. 2021), *cert. granted sub nom. Vega v. Tekoh*, 142 S. Ct. 858 (2022) (“Justice Kennedy’s concurring opinion [in *Patane*] was both necessary to the

1 judgment and narrowly focused on the distinction between physical evidence and un-*Mirandized*  
2 statements . . . and it thus controls.”

3 Mr. Casutt moved for leave to file a reply brief to address “electronic passcodes’  
4 relationship to the Fifth Amendment protection against self incrimination, [and] Mr. Casutt’s  
5 custodial status.” ECF No. 75 at 2. Reply briefs are generally disfavored. *See* Local Rule IB 3-  
6 2(a). The parties fully briefed these issues. *See, e.g.*, ECF No. 70 at 13-19. There is no need for  
7 a reply brief, so I deny the motion.

8 I HEREBY ORDER that Magistrate Judge Koppe’s Report and Recommendation (**ECF**  
9 **No. 69)** is **accepted**. Mr. Casutt’s motion to suppress (**ECF No. 48)** is **denied**. Mr. Casutt’s  
10 motion for permission to file a reply in support of his objection (**ECF No. 75)** is **denied**.

11 Dated: February 24, 2022.

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14 ANDREW P. GORDON  
15 UNITED STATES DISTRICT JUDGE  
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